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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/062,603

01/31/2002

Boby Joseph

01-1045

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20306

7590

08/21/2006

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EXAMINER

POLLACK, MELVIN H

ART UNIT

PAPER NUMBER

2145

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Interview Summary</b>	<b>Application No.</b> 10/062,603	<b>Applicant(s)</b> JOSEPH ET AL.	
	<b>Examiner</b> Melvin H. Pollack	<b>Art Unit</b> 2145	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Melvin H. Pollack (USPTO). (3) Jason Cardone (SPE).  
 (2) Jori Schiffman (57,628). (4) Sean Sullivan (40,191).

Date of Interview: 26 July 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference  
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
 If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1, 4, 5, 15 and 24.

Identification of prior art discussed: Gregorat, Eng, Nederveen.

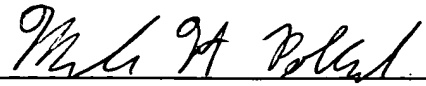
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: A followup discussion and interview was held on 14 August 2006. Three issues were discussed in detail over the two days. An analysis of each issue is provided below.

**Issue 1: Composition of Switch in Gregorat**

Gregorat's operation occurs as such: the link area #206, along with input and output interfaces #202 and #204, operate to transmit to the secondary section a "switchover command" to become a primary section. Further, the middle bar "link area" operates to switch information between the two controllers and to set up the board such that the packets switch from #201 to #251. As such, the middle bar area (#206 in view of #202 and #204) is functionally equivalent to the switch as drawn in the claims.

**Issue 2: Gregorat's "switch command" is internal**

The examiner notes that the claims as drawn do not specify how the controller is separate from the primary or secondary switch, particularly in terms of logical or physical separation or both.

While Gregorat leaves open the idea of a switchover request originating from outside (col. 7, lines 45-55), the expressed embodiment is that the primary controller transmits the switchover request (Fig. 3). Assuming that the applicant wishes physical separation, the examiner acknowledged such in the previous office action, wherein Eng was added in part to show a route server separate from the primary controller wherein the request originates from outside the controller. Proper motivation to combine was shown. An examiner will provide further explanation in response to written arguments.

**Issue 3: Role of the Controller (Nederveen) and Route Server (Eng)**

Eng teaches a route server that makes determinations based on monitored input on whether to switch from a primary controller to a secondary controller. Nederveen teaches a controller #401 that includes the RMON probe (#402), a multiplexer (#400) that is directly connected to multiple switches, and a network management process (#408) that collects the information and that further sends control messages back to the switches, i.e. managing components.

The applicant's stated intent is that the controller controls selection through the route switch. Specifically, the applicant wishes a controller that determines based on monitored data whether to switch from a primary to secondary controller. If so, it sends a command to a physically separate route server. The route server receives the command and then handles the switching without determination of its own. The examiner's combination, by contrast, is described wherein the route server has determinative capabilities.

The claims as currently drawn, however, do not match the aforementioned applicant's stated description, and claim 15 in particular seems to move away from it. Further aggravating this issue is the fact that there are no claim limitations that discuss how the controller relates to the route server. The examiner suggested that the applicant add further limitations regarding the missing method steps and structure, i.e. "a controller connected to the primary switch and the route server, the controller transmitting a switchover command upon determination that the primary switch is inoperable, and further wherein the route server controls the selection switch upon reception of the switchover command." The examiner further suggested remarks regarding Nederveen's control messages (col. 8 and 11), and motivation for providing such determination methods in the controller rather than the route server. Further search and consideration is necessary, and will be performed in response to an RCE.